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CHEROKEE INDIANS.

MEMORIAL

OF THE

"TREATY PARTY" OF THE CHEROKEE INDIANS,

Praying that the accounts of the expenditures of money under the treaty of 1835–'6 with the Cherokees may be examined into, and all misapplication of funds corrected and reappropriated.

APRIL 13, 1844.
Referred to the Committee on Indian Affairs.
APRIL 17, 1844
Ordered to be printed.

To the honorable Senate and House of Representatives of the United States in Congress assembled:

Humbly complaining to your honorable bodies, your memorialists, Cherokees, who emigrated west, under the treaty of 29th December, 1835, beg leave to represent: That, from the year 1828, the condition of the eastern Cherokees became intolerable. They were surrounded by a white population, who made daily incursions upon them. They were deprived of their laws by the legislation of the States; denied their oaths, and rights of suitors in courts. In 1830–'1, their lands were surveyed and granted to the citizens of Georgia, by virtue of her laws. Your memorialists, in common with others of their nation, again and again appealed to the executive, legislative, and judicial departments of the Government for relief. Basing their claims upon thirteen treaties, as well as upon the laws made to regulate trade and intercourse with the Indian tribes, your memorialists were slow in believing that the United States either could not, or would not afford them protection and restore them to the peaceable enjoyment of their homes. But, after the result of the suit of Worcester *vs.* Georgia, in the Supreme Court of the United States, the Cherokees were advised by their best friends in the United States, that their only hope for relief was to be found in a treaty with the Government of the United States, and a cession of all their possessions east of the Mississippi river. This alternative had long been urged upon the Cherokee people; but, influenced by every consideration which binds the Indian to the lands where are buried the bones of his fathers, they had resisted the proposition with a unanimity rarely equalled by a whole people on any subject.

Necessity, however, became a power sufficiently strong to overcome the deepest prejudices known to the human mind. The moral degradation to

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which the poor Cherokees were reduced, together with the impossibility of their being relieved in their then situation, induced many of the most discerning men of their nation, as early as 1833, to become the open advocates of a treaty—a cession of their lands east—and a residence west of the Mississippi river. They were impelled to this course, not from choice, but from fearful necessity. Those who thus boldly opposed the views of the great majority, their deep-rooted prejudices, and the "Cherokee authorities," were subjected to the most bitter persecutions. They were denounced as traitors to their country, and threatened with total extermination. As a party, they were encouraged by the United States; and to such a degree did the miseries and deprivations of the Cherokees attain, that among the intelligent the advocates of a treaty increased. This party looked forward to a removal from among a white population as the sure means of a peaceful residence, where they would be free from the dreadful calamities which surrounded them.

In 1834–'5, a delegation, friendly to a treaty, and known as the most distinguished men of the "treaty party," visited Washington, with a view of urging a speedy arrangement with the Government of the United States for the speedy removal of their people. A regular delegation, also, of the anti-treaty party that year visited Washington, and made some propositions for a partial cession of the country; which propositions were rejected by the President. A proposition was then made to cede the entire country for such sum of money as the American Senate should award. The Senate voted the gross sum of five millions of dollars, as an adequate consideration for the country east. Commissioners, on the part of the United States, were sent out in the ensuing summer, for the purpose of negotiating a treaty with the Cherokee nation.

The history of their negotiations are well known.

Those who had agreed to treat on the basis of five millions, now refused to do so; and every measure was taken to defeat the treaty, without due regard to future consequences. A general council of the whole nation was called to assemble at New Echota in December, 1835. In the mean time, it will be recollected that such measures were taken by the Government of the United States as to leave no alternative but to submit to the terms offered, or be left to the mercies of the States, whose citizens would admit of no longer delay in their removal. No choice was, therefore, left; they must either enter into the treaty, or see the great body of their people driven from their homes, and left without a resting-place on the earth. Under these circumstances, a portion of the nation entered into a treaty with the United States, for the entire cession of their country east of the Mississippi river. Whether it was right or wrong for a minority thus to act against those who claimed the right to exercise the Cherokee government, and to represent a great majority, it is not now necessary to discuss. All that could be said against the treaty will be found in the protest and remonstrances, and accompanying documents, of the Cherokees, while the same was before the Senate for ratification. By the history of the times and the facts in relation to the matter, let it be judged. It was at least ratified by the Senate of the United States, and sent forth by the proclamation of the President. By the Constitution of the United States did it become the supreme law of the land; and, as a party, the United States were bound for the fulfilment of its every provision, according to the letter. If, by the violation of any of its provisions, individual Cherokees

have been made to suffer, or have not received the *benefits* promised under that treaty, each *individual* so injured surely has a right to appeal to the law-making power of the United States for redress.

Viewing the subject in this light, your memorialists come before your honorable bodies, and, in behalf of themselves and families, claim that they are entitled, *individually, to a per capita* division of money, which has long been wrongfully and unjustly withheld from them. In support of this position, they would most respectfully call the attention of your honorable bodies to such provisions of the treaty itself, and the facts in connexion therewith, as seem to bear upon the case.

By the first article of the treaty of December 29th, 1835, it is declared, "that the Cherokee nation hereby cede, relinquish, and convey to the United States all the lands owned, claimed, or possessed by them east of the Mississippi river, and hereby release all their claims upon the United States for spoliations of every kind, for and in consideration of the sum of *five millions of dollars*, to be expended, paid, and invested in the manner stipulated and agreed upon in the following articles:"

"But as a question has arisen between the commissioners and the Cherokees, whether the Senate, by their resolution, by which they advised that a sum not exceeding five millions of dollars be paid to the Cherokee Indians for all their lands east of the Mississippi river, have included and made any allowance or consideration for claims for spoliations; it is therefore agreed on the part of the United States that this question shall be again submitted to the Senate for their consideration and decision; and if no allowance was made for spoliations, that then an additional sum of three hundred thousand dollars be allowed for the same."

The second supplemental article of the treaty aforesaid recites an agreement to refer the question of spoliations to the Senate; and by the third supplemental article of said treaty, "it is therefore agreed that the sum of six hundred thousand dollars shall be, and the same is hereby, allowed to the Cherokee people, to include the expenses of their removal, and all claims of every nature and description against the Government of the United States, not herein otherwise expressly provided for."

"This sum of six hundred thousand dollars shall be applied and distributed agreeably to the provisions of said treaty; and any surplus which may remain, after removal and payment of the claims, shall be turned over and belong to the education fund."

Thus did the United States agree to pay to the Cherokee nation for their lands and spoliation claims, five millions six hundred thousand dollars. This sum (less five hundred thousand dollars agreed to be paid by the Cherokees for lands west of the Mississippi river) was appropriated by act of Congress of the 2d July, 1836, the respective sums being designated as objects specified in the first article, and the third supplemental article of the treaty of December 29th, 1835.

The spoliation claims actually proven up were found, upon the report of the commissioners, as will hereafter be shown, to exceed half a million; and the expenses of removal greatly exceeded what had been anticipated. In other words, it was discovered that the computation for spoliations and removal was too small. Accordingly, we find in the act of Congress of the 12th of June, 1838, entitled "An act making appropriations for preventing and suppressing Indian hostilities for the year eighteen hundred and thirty-eight, and for arrearages for the year eighteen hundred and thirty seven," the following section:

"Sec. 2. *And be it further enacted*, That the further sum of one million forty-seven thousand and sixty-seven dollars be appropriated out of any money in the treasury not otherwise appropriated,

in full for all objects specified in the third article of the supplementary articles of the treaty of eighteen hundred and thirty-five, between the United States and the Cherokee Indians, and for the further object of aiding in the subsistence of said Indians for one year after their removal west: *Provided*, That no part of said sum of money shall be deducted from the five millions stipulated to be paid to said tribe of Indians by said treaty."

Thus it will be seen that by the treaty, and the acts of appropriation under that treaty, the United States became liable to pay the Cherokee nation (or the people thereof) the following sums:

First, for the cession of lands under the 1st article,	$5,000,000
Second, for spoliations and removal,	600,000
Thirdly, for spoliations, removal, and subsistence,	1,047,067
	$6,647,067

This sum, for the purposes of a fair computation, we will say, was passed to the credit of the Cherokees by the Treasurer of the United States. And to what proportion thereof are your memorialists respectively entitled? We know that there are those possessing much wisdom who contend that, by the supplemental article of the treaty, the United States are prohibited from touching the five millions (less five hundred thousand dollars) for any purposes whatever, except for the purpose of *per capita* division. This argument is plausible, but it seems not to have been the understanding of the commissioners who negotiated the treaty, as appears from their published addresses to the Cherokees. We will therefore take the treaty as it has been frequently expounded by the executive officers of the United States; and, according to their construction, we contend that a very large sum should yet remain unexpended, subject to *per capita* division. The fifteenth article of the treaty reads thus:

"It is expressly understood and agreed between the parties to this treaty, that, after deducting the amount which shall be actually expended for the payment for *improvements, ferries, claims for spoliations, removal, subsistence and debts, and claims upon the Cherokee nation, and for the additional quantity of lands and goods for the poorer class of Cherokees*, and the several sums to be invested for the general national funds, provided for in the several articles of this treaty, the balance, whatever the same may be, shall be equally divided between all the people belonging to the Cherokee nation east, according to the census just completed; and such Cherokees as have removed west since June, 1833, who are entitled, by the terms of their enrolment and removal, to all the benefits resulting from the final treaty between the United States and the Cherokees east."

Before proceeding to an enumeration of these several objects, we will remark, that that part of the treaty which related to the goods for the "poorer class" was abrogated by the fourth supplemental article of the treaty. The proper subjects of expenditures were, therefore, 1st. *Improvements and ferries;* 2d. *Spoliations;* 3d. *Removal;* 4th. *Subsistence;* 5th. *Debts of the Cherokee nation;* 6th. *Lands ceded to the Cherokee nation;* 7th. *National and education funds.*

In expending these several sums of money, we assume, 1st. That the United States was trustee of the people of the Cherokee nation, as individual creditors of the United States, for the respective amounts to which each individual was entitled. 2d. That the United States was trustee of the *Cherokee nation* as a body politic, for no other funds than such funds as, by the treaty, were to go into the Cherokee treasury, subject to the disposition of their national council; and, 3d. That if the United States have paid any portion of the funds which belong to the Cherokee people

individually, to the body politic, it follows, as a carollary, that such sum has been improperly paid, and no act of Congress, or proceeding of the Cherokee national council, or chiefs, can divest such *individual Cherokees* of their claims on the United States for such sum of money so wrongfully expended.

Presuming that these positions will not be questioned, we will now proceed to examine, first, how much should have been expended under each item before enumerated, and, as a consequence, how much is justly due each individual Cherokee according to the census of 1835; and to form some conception of the probable improper expenditures, and hence of the necessity of an appeal to Congress to have the amount due your memorialists reappropriated.

And, first, of expenditures for improvements and ferries. These were claims to be paid to the several Cherokees who owned improvements individually. Such became individual creditors of the United States to the amount of their respective valuations, according to the 9th article of the treaty, which provides that "the United States agree to appoint suitable agents, who shall make a just and true valuation of all such improvements now in possession of the Cherokees as add any value to the lands, and also of the ferries owned by them, according to their net income, and such improvements and ferries from which they have been dispossessed in a lawless manner, or under any existing laws of the State where the same may be situated." By a further clause in said article, the "missionary establishments" were to be paid for according to a like valuation. These were, in truth, the only uncertain expenditures provided for in the treaty, and these were soon reduced to a certainty by valuations. Active agents were soon appointed for the various districts in the Cherokee country, and their reports made in due time to the proper commissioners, every figure of which remains on file at the Indian Bureau.

Your memorialists, by an examination of the books of valuations, and the actual payments which have been made to individuals respectively, and to the missionary establishments, have found this fund to amount to one million six hundred and eighty-three thousand one hundred and ninety-two dollars ($1,683,192.) But of this sum, a large amount was improperly paid as spoliations which arose in this way: The 16th article of the treaty declares, that "It is hereby stipulated and agreed by the Cherokees, that they shall remove to their new homes within two years from the ratification of this treaty; and that, during such time, the United States shall protect and defend them in their possessions and property, and free use and occupation of the same; and such persons as have been dispossessed of their improvements and houses, and for which no grant has actually issued previously to the enactment of the law of the State of Georgia of December, 1835, to regulate Indian occupancy, shall again be put in possession, and placed in the same situation and condition, in reference to the laws of the State of Georgia, as the Indians that have not been dispossessed; and if this is not done, and the people are left unprotected, then *the United States shall pay the several Cherokees for their losses and damages sustained by them in consequence thereof.*"

Many persons were dispossessed, and none were ever restored to possession; but for such cases no appropriation ever was made; yet the commissioners went on to pay some five hundred thousand dollars for spoliations under this act.

For the present, therefore, we will say that the United States are entitled to a credit for this sum. It will, however, hereafter be shown, that even this sum must be reduced some five hundred thousand dollars improperly allowed; or rather, for claims paid under the 16th article of the treaty, for which no appropriation had been made, and improperly charged as paid under the 9th article for which appropriation was made.

The second item of expenditures is for *spoliations*, being for claims and and a certain class of reservations under former treaties.

Your memorialists have estimated from the same data, that the sums thus paid to Cherokees individually amounted to five hundred and seventy thousand five hundred and eleven dollars and sixty-seven cents ($570,511 67.) Thus it will be seen that, for the two items of *improvements* and spoliations, we give the United States a credit of two millions two hundred and fifty-two thousand six hundred and three dollars and sixty-seven cents ($2,252,603 67.) But this is a mere matter of accounting; and although we have taken much pains in our calculations, and many of us have great familiarity with the subject, yet we do not pretend that we are certainly accurate; for, by a report of the honorable Committee of Indian Affairs, (forming House of Representatives document No. 288, 27th Congress, 3d session.) we find that a credit of these two items of only two millions two hundred and seventeen thousand three hundred and twenty-eight dollars and ninety cents ($2,217,328 90) is claimed, making a difference in our favor of thirty-five thousand two hundred and seventy-four dollars and seventy-seven cents. As this committee had access to the accounting officers of the department, we shall assume their data as correct, and make our future calculations accordingly.

The third item of expenditures is for *removal*. By the thirteenth article of the treaty and supplemental articles, and additional appropriation of 1828, it will be recollected that no part of the five millions of dollars stipulated for in the first article of the treaty could be taken for *spoliations* or *removal*. This should be borne in mind, although we have, for the present placed them to the general debit of the United States. The credit for removal may at first appear uncertain, and from this misconstruction have the Cherokee funds been subjected to the greatest abuses which they have suffered. Upon a careful analysis of the subject, however, all the difficulty will be found to disappear.

By the eighth article of the treaty, it is provided that "the United States also agree and stipulate to remove the Cherokees to their new homes, and to subsist them one year after their arrival there; and that a sufficient number of steamboats and baggage wagons shall be furnished to remove them comfortably, and so as not to endanger their health; and that physicians, well supplied with medicines, shall accompany each detachment of emigrants removed by the Government. Such persons and families as, in the opinion of the emigrating agent, are capable of subsisting and removing themselves, shall be permitted to do so; and they shall be allowed in full for all claims, *twenty dollars* for each member of their family; and in lieu of one year's rations, they shall be paid thirty-three dollars and thirty-three cents, if they prefer it."

We have now quoted all the provisions of the treaty, as well as appropriation bills, in relation to the *removal* of the Cherokees. This claim for removal, we contend, was, in each case, an *individual* claim. First, because each individual who chose might remove himself, and thus make

himself a creditor against the Government for each member of his family whom he had removed. Secondly, because each individual who chose to remain a citizen of the State actually became a creditor to the Government for each member of his family remaining with him, and received the same as a commutation in money. Thirdly, because each individual, without consulting any chief or any authority of the nation, had a right to claim his removal in a "suitable steamboat or baggage wagon."

The question, therefore, presents itself, what sum might the United States deduct from the Cherokee funds for the removal of each individual removed by the Government?

For the several reasons above specified, we answer, no more than twenty dollars per head. To allow of any other construction would be to admit of injustice and inequality never known in any treaty. It would be to allow the United States Government a sum greater for removal than those who received commutation were paid. Very many of your memorialists commuted for the removal of themselves and families; they received the pittance of twenty dollars per head, and, excepting the expenses of purchasing wagons, teams, and outfits, (which, in the most cases, were useful in the west,) they found this sum amply sufficient.

Under no economical arrangement, when the Government were removing great numbers, could it have cost more. We contend, therefore, that the estimated *commutation* is a *limitation* of the United States to twenty dollars per head for each individual transported in kind. The first detachment of emigrants cost no more; no other estimate was at first made; nor can any other conclusion be legitimately drawn. And so well satisfied were Congress of this, that, in the additional appropriation of 1838, it is expressly provided, "*that no part of said sum of money shall be deducted* from the five millions stipulated to be paid to said tribe of Indians by said treaty." We are the more confirmed in our conclusions, because, when six hundred thousand dollars were taken as the estimate for spoliations and removal, three hundred thousand dollars were mentioned as the sum for the former, and the same sum for the latter purpose. (See instructions of C. A. Harris, Indian Commissioner, to Messrs. Lumpkin and Kennedy, Senate Doc. No. 120, 2d session, 25th Congress, page 149.)

Assuming, therefore, that it will be conceded that twenty dollars per head is the largest sum which the United States might expend for the purposes of removal, and we will inquire, what sum might the United States claim as a credit for removal? The solution of this question depends upon the number of persons actually removed. We have no means of ascertaining the actual number removed; because the statements of the United States officers and of John Ross, who removed many of the Cherokees by contract, differ some sixteen hundred souls. But it is easily ascertained what number of Cherokees there were entitled to transportation in kind, or commutation for removal. The number of persons of the Cherokee nation, according to the census of 1835, including whites and blacks and North Carolina Indians, was sixteen thousand seven hundred and forty-three. Thus, at $20 per head, the United States would be entitled to a credit of three hundred and thirty-four thousand eight hundred and sixty dollars ($334,860) for removal.

The same arguments which apply to the data for removal, apply with precisely the same force to the data for subsistence. The only difference

is, that such as commuted for their own subsistence (as very many did) were entitled to thirty-three dollars and thirty-three cents for each person so subsisted. Upon this basis, therefore, the United States are entitled to a credit for subsistence of five hundred and fifty-eight thousand and forty-four dollars nineteen cents ($558,044 19.) These several items of *improvements, spoliations, removal, and subsistence*, it is respectfully submitted, cover all the expenditures which could be made for the Cherokees *individually*, and without the voice of the chiefs. These persons respectively became creditors of the United States, upon the proper certificates of the commissioners, or emigrating agents, of the amounts severally due them. These four sums, in the aggregate, amount to three millions one hundred and ten thousand two hundred and twenty-nine dollars and ninety-five cents ($3,110,229 95.)

The amounts paid and invested for the Cherokee nation as a body politic, are easily determined. They were fixed by treaty stipulations, and admit of no variation. They are as follows : Debts of the Cherokee nation as stipulated by the tenth article of the treaty, sixty thousand dollars; the sum agreed to be paid for eight hundred thousand acres of land, described in the treaty, and ceded to the Cherokees, five hundred thousand dollars, ($500,000;) the sum in funds, vested in State stocks, as a national, education and orphan fund, as stipulated in the tenth article, and fourth supplemental article of the treaty, five hundred thousand dollars.

Your memorialists are well advised and believe, that these several sums constitute the only credits to which the United States are entitled.

The account current will therefore stand thus :

The United States in account with the Cherokees, under the treaty of 1835,

DR.

To this amount appropriated under the first article of the treaty, including amount retained for land, - -	$5,000,000
This amount appropriated under the third supplemental article of the treaty, - - - - - -	600,000
This amount of additional appropriation for objects specified under the third supplemental article, and for subsistence,	1,047,067
Total, - - -	$6.647,067

CREDITS.

By this amount paid for improvements under the ninth article of the treaty, - - - -	$1,647,917 33
This amount paid for spoliations under the ninth article and third supplemental article of the treaty, -	570,511 67
This amount allowed for removal, estimating numbers according to the census of 1835, at $20 each, -	334,860 00
This amount allowed for subsistence upon the same basis, at $33 33 each, - - - -	558,044 00
This amount paid for debts of the Cherokee nation, as per tenth article, - - - - -	60,000 00
This amount paid for lands, not appropriated, but withheld, - - - - - -	500,000 00

Paid for national funds, tenth article,	$200,000	
Paid for education, tenth article, -	150,000	
Paid for orphan, tenth article, -	50,000	
		$400,000 00
Added to the education fund, fourth supplemental article,		100,000 00
		$4,171,333 00

Leaving a balance against the United States of $2,475,734.

Your memorialits, therefore, claim that the balance due and subject to *per capita* division, according to the provisions of the treaty of 29th December, 1835, is two millions four hundred and seventy-five thousand seven hundred and thirty-four dollars. Divide this, as the treaty stipulates, and was expressly intended by the contracting parties, by 16,743, the number of inhabitants, and the amount due each individual, "to be paid to the heads of families," is one hundred and forty-seven dollars eighty-six cents six mills and two-thirds of a mill, ($147 86 6⅔.) But upon a just estimate, it will be found that each individual is entitled to about one hundred and fifty dollars; because the commissioners, (Lumpkin and Kennedy,) paid many persons who were dispossessed of their improvements, before the expiration of the two years allowed, according to the sixteenth article of the treaty, for the removal, "spoliations," by way of "damages" or "rents," for such disturbance; whereas all such cases of ouster and of failure on the part of the United States to restore and protect the occupants so dispossessed to the enjoyment of their improvements, formed independent charges against the Government, for which no appropriation has ever been made. About five hundred thousand dollars, we are advised, was thus appropriated, paid, and deducted from the general fund subject to *per capita* division.

Your memorialists have yet to learn how they can be far mistaken as to the amount due them. The whole subject is a mere matter of accounts; and the purposes for which the money should have been distributed by the United States, our great trustee, are specified and limited. Surely it will not be contended that the United States might travel beyond the objects in the treaty, their *deed* of *trust*, and the acts of appropriation, in search of objects not therein specified. Much less should it be contended that our great guardian might improvidently expend the money for any of the objects specified. Every specification was a check on such rule, and the moment such encroachment was made, that moment there would necessarily be a deficit in some other object, properly chargeable upon the United States.

Your memorialists are, nevertheless, under the necessity of complaining that there has been a very grievous misapplication of these funds; and hence the necessity of our humbly petitioning your honorable bodies to have them reappropriated. In approaching this subject, they do so with great respect; for we are convinced that none of the distinguished executive officers who have managed this great trust of the United States would wantonly have abused the rights of a single Cherokee, much less the poor and destitute, who never have received one dollar in money under the provisions of any treaty. Your memorialists are, therefore, led to believe that the whole error has arisen from the change of policy and hasty action

incident to a change of Administration. With these remarks, which are made with deference to all who have been engaged in the distribution of these funds, we now proceed to give our views in regard to the improper payments which have been reported, and are painfully known to our people.

We approach this subject with the more confidence, since we have learned that it is partially understood by your honorable bodies.

In the very able report of the Committee on Indian Affairs, of the last session of Congress, (House of Reps. Doc. No. 288, 27th Congress, 3d session, page 4,) we find these remarks:

"The payment to John Ross, of the sums which he has received over and above the amount agreed to be paid him, will probably be regarded as a matter of no pecuniary importance to the United States. These sums were paid out of the fund arising under the treaty, or that which was appropriated by the act of 12th June, 1838. *But it must be recollected that a portion of the funds, arising under the treaty, were applicable to certain specific objects; and if the Government has misapplied these funds so far that there does not remain sufficient to meet the object, the deficiency, created by its abuse of its trust, must be made good out of the treasury. The payment to John Ross was an injury to that part of the nation who did not participate in the profits of his contract, and it is likely to prove an injury to the Government in the manner just mentioned.*"

We differ from the committee in the position that an improper "payment to John Ross," or any other, can be a matter of no "pecuniary consequence to the United States." On the contrary, we think that we have clearly shown that every dollar of the funds were applicable to the "specific objects" as set forth. We nevertheless refer with confidence to the document just quoted, as containing many facts conducing to prove the justice of our claim.

We herewith annex a copy of said report, marked A, and pray that the same may be printed as part of our memorial. It will be borne in mind that, according to our estimate, the United States were only entitled to deduct from the fund, for removal, $334,860; but by the table annexed to said report, page 52, there was paid to John Ross, for removing somewhere about eleven thousand souls, one million three hundred and fifty-seven thousand seven hundred and forty-five $\frac{86}{100}$ dollars, ($1,357,745 86,) making, according to the estimate of the committee, one hundred and three dollars and twenty-five cents ($103 25) for each person so removed!

We regret exceedingly that the committee, in the table published by them, have confounded the expenditures for removal with the expenditures for subsistence. This is not according to the spirit or letter of the treaty. On the contrary, the removal is provided for in the third supplementary article, and no part of the expense could be deducted out of the general fund any more than could the claims for "spoliations." The acts of appropriation, as well as the treaty itself, prove this. Nor does the additional act of appropriation of 1838, to meet "objects specified in the third supplementary article of the treaty of 1835, and also for the purposes of subsistence," give any such right. On the contrary, that act of appropriation was understood, at the time, to mean no more than that whatever surplus should remain, after paying spoliation claims and removal, should be paid towards subsistence. To contend for any other construction is the most favorable argument which could be adduced in our behalf. It is to make the third supplementary article, and the act of appropriation of 1835, a saving of the whole five millions to the Cherokees. It is, in other words,

to say that the framers of the third supplementary article of the treaty intended, by a master stroke of policy, to make the six hundred thousand dollars a fund for paying for "improvements and subsistence," as well as all other objects not in said third supplementary article specified. Your memorialists, therefore, respectfully invite a reference to the accounting officers, in order that the expenses of removal and subsistence may be separated.

Having said this much, we will proceed with the table as it appears by the figures of the committee. Stripped of all circumlocution, it stands thus:

Amount paid John Ross, emigrating agent and superintendent of removal, out of the fund appropriated under the third supplementary article of the treaty - -	$776,398 98	
This amount paid to said John Ross, out of the funds appropriated under the 1st article of the treaty of 1835 - -	581,346 88	
		$1,357,745 86
Amount paid for removal, transportation, and subsistence of the Cherokees, and for pay and expenses of superintendents, agents, interpreters, and steamboats, and all objects of a contingent nature, the same being deducted from the general fund appropriated under the first article aforesaid, - - - - - - -	$402,309 15	
This amount, paid for the same objects, being deducted from the amounts appropriated by the third supplementary article - - - - - - -	154,167 37	
		556,476 52
Amount paid to individuals for commutation of transportation and subsistence, who removed themselves—deducted from the general fund - - - - -	$165,574 16	
Paid for the same objects—deducted from the fund under the third supplemental article - - - - - - -	1,140 00	
		166,714 1
This amount paid Glasgow and Harrison, for 4,914,122 rations, and the transportation of 1,795,969, all being deducted from the general fund - - - -		674,527
		$2,755,464 51

Thus it will be seen that, for the objects of transportation and subsistence, the Government has expended two millions seven hundred and fifty-five thousand four hundred and sixty-four $\frac{51}{100}$ dollars. To this sum may be added one hundred and seventy-two thousand three hundred and seventeen dollars and forty-seven cents, paid for rations furnished the poorer classes of Cherokees, under contract with General Arbuckle, of the 28th

April, 1840—making the whole amount expended for transportation and subsistence, alone, two millions nine hundred and twenty-seven thousand seven hundred and eighty dollars and ninety-eight cents ($2,927,780 98.) Of the sum expended in 1840, we will speak before we have done.

Of this $2,927,780 98, which is reported to have been expended for removal and subsistence, there seems to have been charged to the general fund, $1,896,074 63, while only $931,706 35 is charged to the third supplementary article. It will be recollected that $1,647,067 was appropriated for the purposes of "spoliations and removal," the surplus to be applied to subsistence. Take away the $931,706 35, which is charged to have been paid, and there remains a balance of $715,410 65 to be paid towards spoliation claims. We have shown, upon the best information in our power, that only a little exceeding half a million of dollars of claims were proven up. There should, therefore, be a balance of this fund of about $170,000 unaccounted for.

How does this amount for transportation and subsistence contrast with ours upon the data which we have already furnished? Allowing $20 per head as the limitation for removal, and $33 33 per head as the limitation for subsistence, and these two items could only amount to $892,904; making a difference in the expenditures proper and the expenditures exclusive of the rations furnished in 1840, of $1,862,560 51. Add to this sum the $434,384 02, the sum (less a few defalcations) which the committee, to whose report we have referred, find yet to be in the treasury, and it makes $2,296,944 53; being only $178,789 47 less than the amount claimed as yet justly due by your memorialists.

It will therefore be at once seen, that the great expenditures have been for removal and subsistence, and principally the former. It is therefore our duty to make a short and careful examination of this subject, in the order in which the items are stated in the foregoing account. The first charge is a round sum of $1,357,745 86, paid to "John Ross, as agent of the Cherokee nation." The circumstances attending this charge, the arrangements made with General Scott, and the views taken of the different executive officers, are published with the report already referred to. But these documents are far from satisfying your memorialists that the receipt of Mr. John Ross is any voucher against the claims now urged by your memorialists. In the first place, we contend that, under the treaty, which was the only proper guide to the United States, no authority existed to employ Mr. John Ross, or any other Cherokee or Cherokees, at a greater sum per head than might have been paid to any citizen of the United States, or any other emigrating agent.

If, therefore, we are right in our position that twenty dollars per head is the ultimatum which might be deducted from the Cherokee funds for removal, why, then, all above this sum which was paid to John Ross is chargeable to the United States, and not to the citizens of the Cherokee country. John Ridge, John Martin, John Huss, and many of your memorialists, commuted for the removal of themselves and families, and received therefor a commutation of twenty dollars per head. If, therefore, the arrangement of John Ross and others be viewed as an arragement of Cherokees, for the removal of Cherokees, according to the treaty stipulations, can they be viewed in any other light than as *commuting* for the removal of so many souls? And where is the authority for paying to them more than had been paid to others? What entitled these gentle-

men to greater immunities than others had enjoyed? Was it because they had resisted *a* treaty until longer delay was ruinous, and desperation drove others to comply with the demands of the Government, and then resisted *the* treaty by every means except resorting to arms? But we complain not of the favoritism shown these men, with about as much justice as a fond father bestows his fortune upon a prodigal son. to the exclusion of obedient children, provided the Government, like the father, will reward our refractory brethren at their own expense. But we, who voluntarily abandoned our homes, as soon as the treaty was made; who bore the fatigues of the journey, through an inclement season; furnished our own wagons and teams; paid our own ferriages; acted as our own physicians and conductors; purchased our own provisions on the route; and all for the pittance of twenty dollars per head,—solemnly protest against surrendering the money of right due to us, to pay for a profligate contract with half a dozen individuals of our nation. We are aware that those who enjoyed the benefits of the contract, and all who have borne out Mr. Ross, have always contended that the appropriation of $1,047,067 was obtained at the solicitation of Mr. Ross, and the delegates then at Washington, and forms no part of the money appropriated under the treaty of 1835; and that therefore they are entitled to it. But we appeal to the act itself, and to the congressional journals of the time, as a refutation of this argument. Even, however, admitting the argument, that the whole $1,647,067 appropriated for the objects specified under the third supplementary article, might lawfully be expended for "spoliations" and removal, and, therefore, all which was not paid for the former might be devoted to the latter object; and where was the right to take $581,346 88 cents from the 5,000,000 fund, and placing it in the pockets of Mr. John Ross, and the delegates who conducted the removal? That act of appropriation itself declares "that no part of the sum shall be deducted from the five millions." This argument at most but amounts to this: By the treaty, the United States covenanted to remove the Cherokees in "suitable steamboats and baggage-wagons;" and by the treaty they covenanted to pay for certain claims of individual Cherokees on the United States, being "a fulfilment of former treaties." The former expense was to be deducted from the $5,000,000, and the latter the subject of a separate appropriation, after the amount due the respective claimants should be ascertained by commissioners. But before the ratification of the treaty, the parties agreed to add a supplemental article to make the sum definite. Six hundred thousand dollars, it is estimated, will cover both items of expense. But when the claims are proved up, and the expenses of removal begin to be ascertained, it is found that the sum is insufficient. The United States might well have said to the Cherokees: You agreed on $300,000 as a sufficient sum to cover the claims of your citizens arising under former treaties; you must therefore make a *pro rata dividend.* But to this just view of the subject, the Cherokees might well have replied: You agreed to remove us for a like sum, and the amount being found insufficient, you must therefore pay the balance of the expenses of the removal yourselves. This, so far as the removal is concerned, seems to have been precisely the view taken of the subject by Congress; but in her liberality, the United States even go further, and make up the deficit for *spoliations* and reservations; and as it was by this time supposed that $33 33 per

head would be too small an amount to subsist each individual for a year, they make an appropriation sufficiently large to cover that amount also.

But even after taking this liberal view of the subject, we contend that the United States were still our trustee, and in the removal should have observed economy; and if the removal was affected by contract, the usual rule of allowing competition should have been observed. Surely, it will not be contended that the guardian might expend an unlimited amount for a paltry expense of her ward. Every attempt to justify taking a part of the general fund for the purpose of removal, but more deeply involves the United States.

Your memorialists are not unaware that it has been contended that this liberal contract was given to Mr. Ross and others, by a vote of the Cherokee national council; that they were acting as delegates of the nation; that it was, therefore, in fact a contract of the nation, and consequently a matter in which the United States have "no concern;" that the "Cherokees alone were interested;" "that all the profits should go into the Cherokee treasury;" and the last $586,343 88 were paid, it is said, in accordance with a vote of the "Cherokee national council;" and, therefore, to Mr. John Ross and his associates, must the Cherokees "who have not been benefited by this contract," look.

These arguments may all seem specious, but they are uncanded and untenable. In the first place, it is an attempt to establish a mere loose, non-committal, indefinite correspondence of General Scott, then in command of the United States troops in the Cherokee nation, on the part of the United States, and of John Ross and six others on the part of the Cherokees not removed on the 25th July, 1838, in lieu of a treaty which had been ratified by the United States, in part fulfilled, and under which most of your memorialists had already removed.

What voice had those west of the Mississippi in this arrangement? They could have none, nor did they ever give their assent to it. In the second place, it is an attempt to change the trusteeship, which the United States had voluntarily assumed in that treaty, from their own hands to the hands of the few individuals, who had assumed to themselves the right of acting for the nation; and this, too, without any ackowledgment of theirs that they were acting under that treaty, or assented to any of its terms or provisions. On the contrary, we refer to all the correspondence of the "delegates" in proof of the assertion, that they never undertook to act under the treaty, or even to acknowledge its binding force. In the whole correspondence, allusion is not even made to it. And although the Secretary of War, Mr. John Bell, in his decision of the 6th of September, 1841, is pleased to say that he is principally influenced to pay Mr. John Ross's claim "of $581,346 88½, as stated in his account of emigration claim, because a vote of the Cherokee national council had asked it;" yet do we solemnly protest that not one of those who voted this resolution, or one of the Ross party, ever has acknowledged that this large sum of money, or any portion of it, was to be, or was, deducted out of the money appropriated under the treaty of December, 29th, 1835. In proof of this, we hereto annex the copies of certain resolutions of the national council of 1842, and the message of John Ross, principal chief, in reply thereto, and mark them B and C. By them, it will be seen that Mr. Ross still denies

that he has ever received any money under the Schermerhorn treaty, and expressly says, "that neither himself nor the Cherokee nation" has ever acknowledged it.

But admitting that the Cherokees who pretended to delegate to Mr. Ross, and others of the delegation, authority to act for the Cherokee nation, were a majority of the nation, or that those who voted a request that the balance of Mr. Ross's account should be settled, after the same had been rejected by the Indian Commissioner, the Secretary of War, and the President of the United States, for reasons which appear fully in document A, represented a majority of the nation, did these resolutions confer a right to pay this money out of the general fund? So far as the treaty party is concerned, it will not be pretended that they had any voice in either of these votes. Before the first authority was conferred, it is well known that many of them had peaceably gone to their new homes west of the Mississippi river.

Before the resolutions of the Cherokee council of 1840, asking the payment of his (John Ross's) account, their prominent leaders had been sent to "that bourne from whence no traveller returns," by means too well known to your honorable bodies. Whether the bloody tragedies by which they fell were caused by their yielding to the solicitations of the Government, and signing a treaty for the relief of their people; or whether a fear that they might cause a review of the removal contract now under discussion, it is too late to inquire. Suffice it to say, that for want of that "protection" promised in the treaty they became the victims of a well-concerted and bloody conspiracy; and their orphans are driven from a country purchased with the blood of their sires. The treaty party proper, it is well known, were never represented in what is now termed the government of the Cherokees. On the contrary, they now refer to the reports of the honorable Secretary of War, and Indian Commissioner, accompanying the President's message of December, 1839, in proof of the position, that this very convention which formed this new government, proclaimed the remaining signers of the New Echota treaty outlaws; and that while acts were being done, and votes being given, which, it is said, have seriously affected their rights, the most prominent of the treaty party were driven from their homes by the stronger party. By a decree of that same "convention," some of your memorialists were declared "outlaws," and denied the immunities of "freemen for five years."

Copies of so many of these documents as tend to show that the treaty party could have had no voice in the "government," which it is pretended voted away this large fund, are hereto annexed, marked D, and numbered 1, 2, 3, 4, 5, 6, and 7.

But admitting that the national committee and council represented the whole Cherokee nation, will it be pretended that they could vote away money due the Cherokees *individually*, by solemn treaty stipulations? Let us inquire what were the national funds of the Cherokees, about which their national council might legislate? We hear of no national funds of the treaty, except the five hundred thousand dollars education, orphan, and national fund. This sum, together with $200,000, commuted under former treaties, was vested in State stocks, and the national council, though still denying the validity of the treaty, vote away the interest annually. But could they thus have voted away any Cherokees valuation or improvement? That they never attempted. Even those who have ever

denied the treaty, have pocketed these sums, whether entitled to a hundred dollars, or to twenty thousand, or forty thousand. Several of the most clamorous opposers of the treaty actually receive sums of money, averaging from ten to forty thousand dollars. To this, they were entitled under the treaty, and no one could deny it to them.

Could the national council have voted away a certificate of commutation for transportation or subsistence, or an award of "spoliation," a reservation or damages of property? Such a notion is absurd. Upon the same principle, after deducting the money expended for these several items, and investments in State stocks, (the only national fund.) and the balance, "according to the census of 1835," is due to heads of families *per capita*. Could the United States, we ask, be discharged from their obligation to pay this sum, except upon the individual *receipts* of heads of families? Were these not, also, *individual* claims? And is not each person so entitled an individual creditor of the United States Government? No one has ever received our authority to receipt for this sum of money. There is not a Cherokee in the nation of any party who would say that he had ever delegated any such authority. Admitting that the Cherokee national council are a representative government, and yet they can no more vote away the private property or private dues of their constituents, than can your honorable bodies vote away the private property of your constituents. Many of your citizens have had just claims allowed against your own Government. What legislature would undertake to vote such claims away? What legislature would claim for your national treasury an individual indemnity against Spain or France?

We come now to the second item of expenditures, to which we have referred. It is stated in the report, as "an account paid for removal, transportation, and subsistence of the Cherokees, and for the pay and expense of superintendents, agents, and interpreters and conductors, and hire of wagons, teamsters, and all objects of a contingent nature, $556,476 52."

This is really an unaccountable charge. It is so general that we cannot, of course, be expected to point out any particular objections to th items. Your honorable bodies will, of course, call for the items upon which so extraordinary a charge is made. This sum is deducted from the general fund of the nation; but no account of items whatever is rendered. But how the expenses of "*superintendents, agents,* and *conductors,*" are chargeable to the Cherokees, we are yet to learn. These were all officers appointed by the United States, and were multiplied to great numbers, thus affording employment to many hungry expectants. But why they should be paid by the Cherokees they cannot understand. As well might we be charged with the expense of any other branch of the public service. Is it possible, we would respectfully inquire, that the superintendent of Cherokee removal, and the valuing agents, and many other agents employed, were paid at the expense of the poor Indians? The amount seems not only to warrant this conclusion, but also the conclusion that the heavy expenses of the United States army, including the pay of officers and soldiers, were all placed to our account. What is meant by incidental or contingent expenses we are equally at a loss to determine. For we find in the same appropriation bill of 1838, an additional hundred thousand dollars (of which we have here taken no account) appropriated to meet

objects of this kind. The same objections exist to the charge for hire of "steamboats and wagons." In a word, for reasons already sufficiently amplified, we protest that the whole charge is unauthorized by the treaty, or by any rule of justice or equity. No person who negotiated that treaty on either side, ever dreamed of such a charge. We pray a strict investigation into this charge, in order that the account may be corrected.

The next item in the table of the committee is an amount paid individuals for commutation of transportation and subsistence who removed themselves, $166,714 16. What a valuable commentary is this upon the other charges for transportation and subsistence, amounting to almost three millions of dollars! Here is the whole expense of removing and subsisting three thousand one hundred and twenty-six Cherokees, being one-fifth of the whole nation. These were that part of the nation who gave the Government no trouble. No army had to be employed to bring them into depôt; no rations for them; no money was expended for blankets for them; no physicians or medicine were employed for their benefit; but they are those who came peaceably away, at their own expense, in the confident belief that those who remained behind would follow; and that the money appropriated for their common benefit would be equally divided. Such of those persons as live are your memorialists; they now ask but justice for themselves and children and families.

We have little to say in regard to the sum of $674,527 97 paid Glasgow and Harrison. In amount, it is subject to the same objections as the amount paid John Ross under the contract for removal. As between the United States and the contractors, they have both been justly denominated "stupendous frauds."

Let your honorable bodies but send for papers and persons, and investigate the facts in relation to both these cases. You have the power; you have the means of information; we have not. Your interests are involved, (if justice be done us;) ours are not. We pray that the account be corrected; that all above thirty-three dollars and thirty-three cents per head be striken out, and the balance of the sum reappropriated.

The circumstances under which the rations, amounting to $172,216 47, were issued by General Arbuckle, under contract of 28th April, 1840, are strong arguments in favor of the application of your memorialists. Owing to the revolutionary measures and civil commotions consequent upon the violent course of the Ross party in 1839, the United States refused to pay to the Cherokees, individually or collectively, any portion of their funds, until their difficulties should be settled. In consequence of this course many of the poor class of Cherokees, having made no crops in 1839, were, in 1840, correctly represented to the Government as being in a starving condition. These were the very emigrants of 1838, who had already cost the Cherokee nation, as the account now stands, $103 25 per head, besides the enormous sum of some fifty-five dollars each for a year's subsistence furnished by Glasgow and Harrison, to say nothing of the contingencies already exposed. The Secretary of War, therefore, in his humanity, but apparently regardless of the interests of those who had received no benefits under the treaty, issued an order to General Arbuckle to cause rations to be issued to the poor class of Cherokees, and the amount thus received to be charged to the recipients. A large number of individuals thus received rations to the amount of nineteen dollars per head, until the amount was swollen to $172,316 47.

We trust that we have successfully shown what were the national, and what were the individual funds, appropriated under the treaty of 1835; 2d, what were the objects intended and the specific amounts rightfully applied to each; 3d, That, after paying these several objects their respective amounts, the balance is subject to a *per capita* division according to the census of 1835; 4th, We have shown very near the amount which is justly due each individual; 5th, We have shown that, owing to an egregious misapplication of these funds, an appeal to Congress is necessary.

There only remains in the treasury, says the report to which we have referred, $275,499 59. This is leaving only thousands in lieu of as many hundred thousand dollars justly due! And even this sum, we are advised, is being applied to claims arising under the sixteenth article of the treaty—spoliations for being dispossessed of improvements, and not restored to possession as guarantied in the treaty. Many of your memorialists have just claims of that character, but they patiently await the arrival of commissioners in the country to investigate their complaints.

Your memorialists now confidently come before your honorable bodies, claiming not mercy, but justice. We frankly acknowledge that in granting us justice, however, you will do an act of mercy to many.

Under the 9th article of the treaty, the rich were paid for all their labor bestowed since the first dawning of civilization among us. Their every farm-house and fruit-tree were valued and paid for. Under the 13th article and third supplemental article, those having claims for reservations, secured under former treaties, being the rich and more intelligent, who had shared the benefits of the treaties of 1817 and 1819, divided exceeding half a million of dollars among themselves. By the operation of the 9th article, the rich and speculating collected their debts and from the less provident. All these and many others were advantages secured to the rich.

But what single advantage have the poor received under this treaty? None whatever. They were transported in herds, it is true, and by these "*stupendous frauds*" half a dozen designing men amassed princely fortunes, which have enabled them to control the country ever since. Further than the transportation and the being indifferently fed on the road, through a protracted journey of one hundred and twenty days of piercing winds and drifting snows, they have received no benefit. Not one dollar of money paid John Ross has ever reached the Cherokee treasury. How could it? It formed no part of the national fund. It is not subject to the control of our council. It is the property of those to whom your Government improvidently gave it. The framers of the treaty of 1835 thought that they had secured an equal division of at least two millions and a half of dollars. Such was the calculation of the venerable commissioner in his talk, when urging the treaty. He had the census before him, and he had well calculated the expenses. He spoke the just interpretation of the instrument, but it has been greatly perverted, and the funds grossly misapplied. Acting upon the full belief that the treaty would be carried out, and the *per capita* money paid, many of the best men in the nation have exhausted their substance in feeding the poor and clothing the naked. Many of their lives have been thus saved through protracted winters; implements of husbandry, and powder and lead, have been furnished them on credit. In sickness they have been medicined; after death, such as have been removed from the heavy sorrows which weighed them down in

a land where they found nor home nor peace nor comfort, found decent interment. The capital of the adventurous Cherokee merchants has been exhausted; their credit in the mercantile cities is gone, and they *regarded* as faithless by their liberal mercantile brethren, not for want of honesty or disposition to pay, but because the poor deluded Cherokees have not received their just dues.

We pray you turn us not away, because this application comes not through the "Cherokee constituted authorities," "their National Committee and Council." You talked not thus to us when urging upon us the necessity of a treaty. You told us that these pretended chiefs and rulers were evil advisers; and bade us act as men, who understood their own interests. You said that the money should be divided among the whole people; and you SO HAD IT WRITTEN. The fund which is asked never could go into the Cherokee treasury. That treasury swallows up the interest on the $764,000 per annum, of which the poor Indian never receives a dollar. It goes to the salaried officers; to the payment of the delegations, and of guards to protect the chiefs in their violent measures, which have baptized our land with the blood of our Ridges and Boudinot, and driven from the Cherokee government their lawful humane rulers, our Browns, our Rogerses, and our Vanns. This oppressed minority now fly to you as a last resort! We dare not even assemble to consult as a party, and to appeal to you as representatives of such. For although our numbers have greatly increased, yet the mighty influence of over thirteen hundred thousand dollars has prevailed over us by a bare majority. Many, however, who have sustained the tottering power thus raised by money and violence over us, were the very refugee Creeks, who were removed at the expense of the suffering Cherokees.

We therefore come before you as individuals, under your protection, and forming, in some sort, an integral part of the United States. If one of us have suffered damage by having his private property taken for public use, he may appeal like any other citizen to the Congress of the United States. Such is precisely our case. The money due us individually has been taken to pay the debts justly chargeable to the United States. This is a small sum to your nation; but it is a great sum to us. We ask not in behalf of those Cherokees who are politically opposed to us; they will speak for themselves. They acknowledge not your treaty; but still contend for some twenty millions of dollars for the country which they have left behind. They claim that country by a title paramount to the treaty with which you have enriched their leaders, and they charge you all damages which they have sustained in their feelings, their persons, and their property. Their leaders have even caused them to believe that, by urging this claim, or by receiving money under the "Schermerhorn Treaty," they would be abandoning a greater claim for millions of dollars. How far they are sincere, is not for us to inquire. We will throw no obstacle in their way. As the true friends of the poor and uneducated Cherokees, we should like to see them paid the money provided for them under the treaty, and wrongfully withheld. That they would receive it, we have no doubt. They would no more refuse it than the rich enemies of the treaty refused pay for their improvements and reservations. But we pretend not to represent them. We but speak for ourselves and families. We have always been the friends of your Government, and we cannot believe that justice will now be denied us.

Our petition, showing our numbers, is with you. We ask a full consideration of our demands, and a just decision. We beseech you delay not a decision. Let us know our fate, and know it speedily. If our poor are to be given up to starvation, and those who yet have the means of subsistence to be left to the resentment of those who vindictively persecute all who do not bow to their power, let us know our sad fate without delay. Our prayer is,

1st. That we may be paid the money justly due us as heads of families, according to the 15th article of the treaty of 1835.

2d. That, in order to afford that protection against "*domestic strife*" promised in the treaty, a line of geographical division may be run, and the party opposed to Mr. Ross separated from the party who immigrated under him, and still uphold him. The reasons for the latter request are fully set forth in the memorial of western Cherokees, which we have examined, and which will be before your honorable bodies.

[The undersigned, duly appointed delegates of the treaty party, now refer to the names of the treaty party on file before the Senate Committee on Indian Affairs, which show the petitions of the heads of families of 2500 Cherokees of the treaty party whom they have been appointed to represent.]

J. A. BELL,
EZEKIEL STARR,
Representatives of the Treaty party of Cherokees.

EXHIBIT A.

[Exhibit A, being Ho. Rep. Doc. No. 288, 3d session 27th Congress, referred to in the memorial, was printed at the last session, and hence it was not ordered by the House to be printed with this memorial.

The following documents are specially referred to for the information of Congress.

For the history of the causes which led to the origin of the two parties of Cherokees, and the treaty of 1835, see Cherokee nation vs. Georgia, 5 Peters' Rep. page 1; Worcester vs. Georgia, 6 Peters' Rep. 516; Senate Document No. 120, 2d session, 25th Congress; and Senate Doc. 286, 1st session 24th Congress, pp. 67 to 77.

Protection promised the advocates of the New Echota treaty, both personally and pecuniarily, and assurances that their persons, their safety, and their money, should not be sacrificed at the will of the dominant party. (See Senate Document No. 120, 2d session 25th Congress, pages 90, 93, 101, 102, 470; and 5th and 6th Article of the Treaty of 1835.)

For the intention of the contracting parties in negotiation of the treaty, the best interpretation as to its construction, see award of the Senate of $5,000,000. Senate Journal.

Provisional treaty, Senate Doc. No. 286, 1st session 24th Congress, page 32; sec. 2, 17, and 18, of said provisional treaty, and particularly the schedule in sec. 18. See Journal of the Commissioners who negotiated the treaty; Senate Doc. No. 120, 2d session 25th Congress, p. 514, *et seq.;* and articles 1, 13, and supplemental treaty.

The whole Document 120, is particularly referred to.

As to construction of the Treaty.

Reservations under treaties of 1817 *and* 1819, *not to be paid for out of* $5,000,000, *or* $600,000 *fund; but by the United States.* (*See Journal Commissioners above referred to,* 13*th article of the treaty;* and opinion of Attorney General Butler, Op. Book of Attorneys General, pp. 1161–'2.) *Yet, in violation of this opinion these reservations have been paid for out of the money of the Cherokees.* (See Ho. Rep. Doc. No. 288, 3d session 27th Congress, page 53; Ho. Rep. Doc. No. 391, 1st session 28th Congress, page 63.)

Spoliations and expenses of removal and subsistence, not chargeable on the $5,000,000 *fund, but on the* $600,000, *provided in the* 3*d supplemental article, and the appropriation of* $1,047,067, *appropriated by act of* 1838. (See talk of President Jackson, Senate Doc. No. 120, 2d session 24th Congress, pp. 41, 42; Journal of Commissioners already referred to, same Document. See instructions to Commissioners, same Document, 149, 50.)

History of the act of appropriation of 1838—Senate Doc. No. 466, 2d session 25th Congress; Report of Secretary of War of May 23d, 1838; Ho. Rep. Doc. No. 401, 2d session 25th Congress—*shows that only removal and subsistence were estimated for.*

The intention of the legislature, when discovered, must prevail; any rule of construction declared by previous acts to the contrary notwithstanding. (*Brown vs. Barry,* 3d Dallas, 365; 1 Con. Rep. 165; United States vs. Fisher, 2d Cranch, 358.)

And in the construction of statutes, it is frequently necessary to refer to its history and to the local history. (*Preston* vs. *Brewster*, 1 Wheat. 116; 3d Cond. Rep. 508.)

And see, generally, the rules of construction adopted by the Supreme Court of the United States, as collected in 3d vol. Peters' Dig. page 571, *et seq.*

Spoliations for the dispossession of the Cherokees, as contemplated in the 16th article of the treaty, are not to be paid by the Cherokees out of either fund; but formed independent charges against the United States, for which no appropriation has ever yet been made; and yet several hundred thousand dollars have thus been paid. See instructions to Commissioners, already referred to; and see Mr. Cave Johnson's Report of present session of Congress, where the Secretary of War says, the word "rents" is never mentioned in the treaty; see, also, Ho. of Rep. Doc. No. 46, 1st session 25th Cong. page 226.]

EXHIBIT B. AND C.

Whereas it is the duty of the representatives of the people of the Cherokee nation, to require information and legislate on all subjects touching the rights and interests of those whom they represent:

Therefore, *be it Resolved by the National Council*, That Mr. John Ross, principal chief, be, and he is hereby requested, to lay before the National Council during its present session, a full and fair statement of the amount of money received by him from the Government of the United States, since the year 1835, and how applied, and what amount is now in his hands (if any) subject to legislation.

To the National Committee and Council, in National Council convened:

If the intention of the resolutions of your bodies of the 14th inst., calling for a settlement of all moneys received by me from the United States Government, since the year 1835, and how applied; and also the amount (if any) in my hands, subject to legislation, be to seek information respecting the public moneys of the nation. I reply, that the annuities were received by the treasurer of the nation, John Martin, and by him disbursed under the laws of the eastern Cherokees, up to the fall of 1837; and in 1841, the annuities and school fund were received by the present treasurer, Mr. David Vann.

In the summer of 1838, in the absence of the delegation appointed to represent our wrongs to the Government of the United States, and to ask redress, our people were captured by the troops of the United States, under pretext of carrying into effect the provisions of Schermerhorn's treaty. Under these operations they were forced from their homes; some marched before the troops through rivers and mud, to the forts and camps in which they were confined, and some driven in boats at the point of the bayonet. Our people well remember the sufferings they endured, and it is affliction to call to mind the frightful ravages made among them by

sickness and death; and the ruinous loss of property they sustained by this cruel treatment. While these things were doing, the delegation was pressing on the attention of the Government of the United States the claims of the nation. The result of which was, a special appropriation of $1,147,000.

Had this appropriation not been made, the whole of the expenses of the emigration must have been defrayed out of the funds provided by the Schermerhorn treaty, as was contemplated by the makers of it, as well as by the distinct stipulations of the instrument itself. This amount, then, is a clear gain to the Cherokee people. Out of this appropriation, a sum of money was received by the delegation, was disbursed by the national committee in dischage of the debts of the nation. Soon after their return from Washington, in order to stop the transportation by water, already in progress under the direction of the United States officers, the same delegation was authorized by the national committee and council, and people of the Cherokee nation, in general council assembled, to make arrangements with General W. Scott for the removal of the people through the agency of our own people. This authority is recognised and reaffirmed by the act of union, by vesting in the delegation, who, it says, shall continue in charge of the business with their present powers until it shall be finally closed.

Under this arrangement, advancements were made by General Scott out of the same appropriation, and applied to the purposes of emigration.

In 1841, the arrearages due on the emigration, so long withheld, were received agreeable to the resolution of the National Council, passed on the 11th day of November, 1840, out of which, as stated in my message, since the adjournment of your extra session last year, the disbursements of the claims upon the emigration, under the arrangement of General Scott, was resumed under my superintendency, and the payments continued for about three months, up to the time of my departure for Washington. So soon as the papers appertaining to this business can be arranged, and a full exhibit of disbursements prepared, and such claims as yet remain unadjusted be disposed of, the transactions of my superintendency will be reported to the nation through the special agents charged with this duty. There are no moneys in my hands subject to legislation.

The sentiments of the petition from certain citizens of Delaware district, placed in my hands by your directions, viewed in connexion with your resolutions, imply that I have received all moneys paid by the Government of the United States on account of Cherokees, since the year 1835, without having rendered any account of them. The combined tenor of the two papers seem to embrace even the moneys received and expended under the Schermerhorn compact, from which the people have been incited to expect *per capita* money. Now it is well known the nation has always disclaimed that compact, and that I have disclaimed it also. How, then, could *per capita* money, under its provisions, come into my hands? Yet there can be no doubt immense sums of money were expended under its provisions, and charged to the nation, which it would be very proper to examine into.

I have no documents in my possession with information respecting disbursements under that compact; but if the books and papers of the committee of thirteen who acted under it, together with those of the com-

missioners, were laid before the council and people, they would no doubt shed much light on the subject. It is known to the Cherokee people that several points in controversy, as well as their public and private claims against the United States, remain open and unadjusted; and though the delegation, in the late negotiation with the Secretary of War, failed to procure their settlement, we still hold not only just and equitable claims on the United States Government, but the unequivocal promise of the President that they shall be satisfied; and, as you have been informed in my message, commissioners have been appointed for the purpose of investigating these claims.

JOHN ROSS.

EXECUTIVE DEPARTMENT,
December 20, 1842.

EXHIBIT D.

No. 1.

Whereas, the removal of the eastern Cherokees to this country has brought together the two branches of the ancient Cherokee family, and rendered it expedient that a union of the two communities should be formed, and a system of government matured and established, applicable to their present condition and satisfactory to all parties: And whereas, a general council of the representatives and people of both communities was appointed for that purpose by the joint call of their respective authorities, which met accordingly at Ta-ka-to-ka, on Monday, the 3d day of June, 1839:

And whereas, the representative branches of said general council having been unsuccessful in effecting the objects for which the general council was convened, the people, who formed a constituent branch of said general council, called a national convention of the people of the eastern and western Cherokees, to meet at Illinois camp-ground, July 1, 1839, to take those important matters into consideration; which convention has assembled accordingly, and is now in session:

And whereas, in the interval between the call and the meeting of this national convention, the unhappy fact of Major Ridge, John Ridge, and Elias Boudinot's being killed occurred; in consequence of which violent threats against the lives of innocent and peaceable citizens were made by some of the friends of the deceased, by which the tranquillity of the community has been interrupted, and a state of excitement and alarm produced, dangerous to the public safety and destructive to domestic and social order:

And whereas, the unfortunate persons deceased, together with others in connexion with them, had by their acts unhappily exposed and laid themselves liable to the pains and penalties and forfeitures of outlawry:

Therefore, in order to stop the further effusion of blood, to calm the present unhappy excitement, and to restore peace and harmony and confidence to the community, we, the people of the eastern and western Cherokees, in general council assembled, in our own name, and by the authority and in the exercise of our plenary powers, do ordain and de-

cree, and by these presents it is ordained and decreed accordingly, that a full and free pardon and amnesty be and is hereby granted to all those persons who are liable, as aforesaid, to the pains and penalties and forfeitures of outlawry, and that they be fully exempted, released, and discharged from all liability to prosecution or punishment of any kind whatever, on the aforesaid account; and that they be restored to the protection of the community, and the enjoyment of the benefits of the laws, to all intents and purposes, as if the acts which rendered them liable to the penalties aforesaid had not been committed—excepting that they shall not be eligible to any office of profit, trust, or honor, in the eastern and western Cherokee community, or under any union or other modification of said communities which may be effected.

Nevertheless, the general council shall have power, after the lapse of five years, if, in their opinion, the good conduct of any person or persons affected by this decree shall render it proper to revoke, with regard to such person or persons, that portion thereof which declares them ineligible to office, and thereby restore them to the enjoyment and exercise of all the immunities and franchises of the community; provided, however, that, in order to guard the publick peace and the personal security of the citizens from being endangered by the operation of this decree, the benefits of its provisions shall be available to those persons only who shall, within eight days* after the passage of this decree, (appear) before the general council, and shall retract or disavow any threatenings which may have been made by themselves or their friends against the life or lives of any citizen or citizens of the eastern or western Cherokee nation, or against that of any other person, in revenge, or as a retaliation for the death of the unfortunate persons deceased, or for any other cause, and shall give satisfactory assurances that, for the time to come, they will demean themselves as good and peaceable members of the community. That in order effectually to carry out the intentions of this decree, to suppress disturbances, to remove public nuisances, and to preserve good order and tranquillity, eight auxiliary police companies shall be organized throughout the country by voluntary association; each company to be commanded by a captain and lieutenant, and such subordinate officers as may be required, who shall be elected by the people, any of whom may also be removed by the people whenever they deem it expedient. The whole of these companies to be under the general command of Jesse Bushyhead, 1st, and Looney Price, 2d, in command: *provided, always*, that the general council shall have power by law to control, modify, suspend, or discontinue, these police companies as the welfare or safety of the country may require.

Given under our hands at Illinois camp-ground, this 7th day of July, 183[illegible]. By order and on behalf of this general council of the eastern and western Cherokees in national convention assembled.

[*Numerously signed by the people in Convention.*]

* *Ordered*, By the Cherokee people in general convention assembled, that inasmuch as information concerning the decree of amnesty passed on the 7th instant, had not reached some of the persons affected by its provisions; that the time specified for their giving assurances for the future maintenance of peace be extended until further provisions shall be made by the convention for that purpose; the intention of the said decree being solely to obtain assurances for the preservation of the peace, and not to endanger the safety of any person whatsoever.

Given under our hands, by order of the general convention, this 13th day of July, 1839.

True copy: S. G. SIMMONS,

A. D. C. and A. A. Adjt. General, 2d Dept. W. Division.

No. 2.

Whereas, by a decree of the general council of the eastern and western Cherokees, in national convention assembled, at Illinois camp, July 7th, 1839, it is provided that a full and free pardon and amnesty be granted to certain persons, who, by their acts, had exposed and laid themselves liable to the pains and penalties of outlawry; and that they be fully exempted, released, and discharged, from all liability to prosecution or punishment of any kind whatever, on the aforesaid account; and that they be restored to the protection of the community, and to the enjoyment of the benefits of the laws: Provided, however, that the benefits of this decree shall be available to those persons only who shall retract or disavow any threatenings which may have been made by themselves or their friends against the life or lives of any citizen or citizens of the eastern or western Cherokee nation, or that of any other person or persons, in revenge for the death of Major Ridge, John Ridge, and Elias Boudinot; and shall give satisfactory assurances that for the time to come they will demean themselves as good and peaceable citizens of the community.

Now, we, the undersigned, gratefully accepting the clemency of our people, humanely provided for our benefit and relief, do, in the presence of the Supreme Judge and Searcher of all hearts, and in the presence of this great assembly, hereby sincerely acknowledge our error, and express our deep contrition for the same; and we do also declare our readiness to submit to our people, and to make all the reparation in our power for the injury we have done; and we do hereby recall and retract any threatenings which may have been made by ourselves or any of our friends against the life of any person whatever, and we do disavow any such threats made by any of our friends in revenge or retaliation for the death of the persons aforesaid, or for any other cause; and in conformity with the requirements of the ordinance and decree aforesaid, we do, in the presence of the Supreme Judge, and in this general council, solemnly pledge ourselves to abstain from all acts which may in any way or manner disturb the peace and endanger the security of the community or of any individual thereof; but that, for the time to come, we will sacredly regard these our solemn assurances, and in good faith demean (ourselves) as good and peaceable citizens, in fulfilment of the obligations involved in this pledge, and in the true intentions of the ordinance and decree.

Given under our hands, at Illinois camp-ground, in the presence of the national convention, this 10th day of July, 1839.

No. 3.

Know all men by these presents, that, in order to stop the further effusion of blood, to calm the present unhappy excitement, and to restore peace and harmony and confidence to the community, we, the people of the eastern and western Cherokees in national convention assembled, in our own name, and by the authority and in the exercise of our plenary powers, do ordain and decree, and by these presents it is ordained and decreed accordingly, that a full and free pardon and amnesty be, and is

hereby granted to all persons, citizens of the eastern and western Cherokee nation, who may be chargeable with the act of murder or homicide, committed on the person of any Cherokee previously to the passage of this decree, whether the same may have been committed within the limits of the eastern or western Cherokee country or elsewhere. And by the authority aforesaid, we do further ordain and decree, that all persons so chargeable are, and by these presents are declared to be, fully exempted, released, and discharged from all liability to prosecution, punishment, or disabilities of any kind whatever, on the aforesaid account; and that they be restored to the confidence and favor of the community, and to the enjoyment and protection, and benefits of the laws, to all intents and purposes, as if the act or acts for which they stand chargeable had not been committed.

Given under our hands, at Illinois camp-ground, this 10th day of July 1839. By order of the national convention.

No. 4.

IN NATIONAL CONVENTION.

Illinois Camp-Ground, *July* 12, 1839.

Sir: We deem it proper to report further to you for your information the proceedings of the national convention in reference to the late excitement.

In order effectually to stop the further effusion of blood, the convention has, by a decree, buried all past grievances in oblivion, on the sole condition of the parties giving assurances to maintain the peace in future.

Measures have been taken to inform those persons who claimed protection at the fort of these proceedings, so that the collecting of their friends to secure themselves from violence is rendered altogether needless.

These provisions, which are in exact conformity with your wishes, as well as with our own, will prove to you our determination to prevent mischief, and to promote peace.

We have the honor to be, sir, your friends, and obedient humble servants. Signed by George Lowry, John Ross, and others.

Extract from a letter of John Ross, and others.

The decree which has been passed, so far as we are concerned, throws a veil of oblivion over all past offences, on as reasonable terms as any offenders and violators of our laws could expect; and a number of those who were exposed to the penalties of our laws have come in, accepted of the terms, been received with open arms, and are now in peace and safety, to traverse the country and pursue their common avocations free from the fear of harm. Among those who had violated the laws were individuals connected to many of us by the closest ties of consanguinity. No exceptions were made for them—none were asked; and shall we make distinctions? No; the fiat has passed, and cannot be charged with partiality. If any of our people refuse to abide the Cherokee laws, the world is

large, they can leave us; but if they remain in our country, being a part of our people, they must come under our laws.

No. 5.

Whereas a decree was passed by the Cherokee people, in national convention, at the Illinois camp-ground, on the 7th day of July, 1839, providing for a general amnesty to all such individuals as had, by their acts and conduct, exposed and made themselves liable to the penalty of outlawry, and all such persons being requested to appear in eight days from the date thereof before the general council, to avail themselves of its provisions; and whereas, it was again ordained by the Cherokee people, on the thirteenth day of July, 1839, that the time specified above should be extended until further provisions should be made by the convention:

And whereas, some of the individuals affected by the aforesaid decree have not availed themselves of its liberal and humane provisions, and by their improper conduct are endangering the peace of the country and threatening the lives of valuable citizens: It is, therefore, ordered by the convention, that public and general notice be and is hereby given to all such persons as have not availed themselves of the benefits of the aforesaid decree, to appear before this convention on or before the 4th of September, 1839, and comply with its requisitions; it being essential to the preservation of peace, that the life of a citizen shall not be unlawfully endangered. It is further ordered, that two persons be selected to disseminate through the country, and, if possible, personally notify all such individuals as are hereby affected, to come forward in accordance with this order.

Done in convention, in behalf of and for the whole Cherokee people, at Tah-le-quah, this 28th day of August, 1839.

Signed by George Lowry, John Ross, and others.

True copy, original retained in this office.

THOMAS IRWIN, *Clerk.*

No. 6.

At a meeting of the treaty party of the Cherokee nation of Indians, held at Price's prairie, in the Cherokee nation, on Tuesday, the 20th day of August, 1839; on motion, George W. Adair was called to the chair, and Thomas Wilson was appointed secretary. The objects of the meeting were explained by the chairman. The following preamble and resolutions were offered by John A. Bell:

Whereas, on the 22d day of June last, our three distinguished friends, Major Ridge, John Ridge, and Elias Boudinot, were cruelly and inhumanly assassinated, and, as we are informed and really believe, by an order of the partisans of John Ross, in consequence of the deceased having signed the treaty of December 29, 1835:

And whereas since that time the state of anarchy and confusion in the country has been intolerable, and the decree passed by the partisans of John Ross, as well as many other circumstances, clearly demonstrate that

all the signers of the treaty and many of their friends are in imminent danger of secret and cowardly assassination :

And whereas, a civil war is seriously deprecated, inasmuch as it would tend to the total destruction of our nation : Be it therefore

1. *Resolved,* That we regard the recent conduct of the partisans of Ross, in the murder of the deceased, in the decree passed relative to the signers of the treaty and their friends, and in the keeping together of so great a number of persons armed, in a military and hostile manner, deserving the reprobation of all mankind, and meriting the severest punishment.

2. *Resolved,* That, inasmuch as we would seriously deprecate a civil war, we will not engage in one, unless assured that it is the only means left for our personal safety.

3. *Resolved,* That we believe it to be right that we should appeal to the Government of the United States for the punishment of the murderers of the deceased Ridges and Boudinot, and for justice and protection for ourselves and families.

4. *Resolved,* That, for that purpose, we will send a delegation of two, viz : John A. Bell and Stand Watie, to Washington city, in order to lay our grievances before the Secretary of War.

5. *Resolved,* That the chairman appoint a committee of six to draft an address to the Secretary of War, making known our grievances and our wants, and to report the same, forthwith, to this meeting, for adoption.

6. *Resolved,* That the said John A. Bell and Stand Watie, our delegates, be intrusted with full authority to enter into arrangements with the Secretary of War for our protection and relief.

The chairman appointed the following persons a committee, under the 5th resolution: Charles Rese, John Field, James Star, Thomas Wilson, William Roling, William Lassley.

The committee appointed reported the following address, which was adopted by the meeting :

CHEROKEE NATION, *August* 20, 1839.

The undersigned, a committee appointed by the party of Cherokees, known as the treaty party, to represent the recent history of events in relation to themselves and their present condition to the honorable Secretary of War, beg leave respectfully to state:

That a great portion of the treaty party emigrated to the Cherokee nation west as early as arrangements were made for their removal, under the treaty of December 29, 1835 ; that the remainder of their party emigrated during the last year ; that, on their arrival, they found their brethren, known as the Cherokees west, in the possession of a country healthy and fertile, and every way adapted for the prosperity of the Cherokee people. They found a government regularly organized, with a code of laws suitable to their condition, and equal in their operations. Such of the treaty party as arrived at an early day were permitted to associate in the council of their brethren and to hold offices under the government ; all either purchased or improved farms, bought cattle, and embarked in various branches of business, according to their several skills. They welcomed that portion of their countrymen opposed to the treaty to their new homes, and extended to them every act of courtesy

and kindness in their power; many of their friends extended to the poorer class credit, in order to enable them to purchase the articles of husbandry and make shelter for their children. The treaty party believed all was going well. until the call of a council on the first Monday in June last.

Upon the adjournment of Mr. Ross's part of his meeting, his party called for a council of the whole nation to meet on the first day of July.

On the 22d of June, their three distinguished men, known as the leaders of their party, Major Ridge, John Ridge, and Elias Boudinot, were cruelly assassinated by the partisans of John Ross. The number and prominence of the persons engaged in these massacres, prove that the plot was arranged at the previous council, and the perpetrators of the horrid deeds selected, and chosen, and organized into three separate banditti. But if proof were wanting, the subsequent proceedings are a proof of the truth of our assertion.

We beg, however, that the honorable Secretary of War will bear in mind, that this "convention" was only attended by the partisans of Mr. John Ross. The treaty party have only been able to obtain the copies of the proceedings of that meeting hereto annexed, and numbered. What further steps have been taken they cannot know, for Mr. Ross's council still continues in session. But, from the history of the past, the decree itself, and the daily threats which we hear in the country, the treaty party are not only convinced that their enemies approved the murder of their friends, but would sanction the total destruction of themselves.

The honorable Secretary of War will see the humiliating condition upon which we are required to save our lives.

We must, however, submit to these conditions, thus degrading to ourselves and reproachful to the United States Government itself, or to be driven from the country, or engaged in a civil war in self-defence. The Government of the United States is well aware that either alternative would be equally destructive to ourselves and families. Were we tamely to submit to the dictation of our enemies, we have too many reasons to know that there would be no safety for us. Before we can consent to leave the country, which we love quite as well as our enemies loved the country which they have left, we must inquire where we are to go, and what are we to do with the homes which we have purchased and improved? Hardly as we are oppressed, and flagrant as are our injuries, we value too highly the Cherokee blood to engage in the horrors of a civil war, unless driven to it in acts of self-defence, and thus be the destruction of our own people.

The treaty party deny that they have committed any acts deserving of punishment. If they have violated any law, they are willing to be tried by its provisions, and abide the decision of the proper tribunals of their country.

But they acknowledge not the power or mobocracy of John Ross or his constituted authorities. They will never submit to his authority or dictation. As the only alternative, then, which seems to be left them, they confidently and solemnly appeal to the Government of the United States for justice and protection. They cannot, like Mr. Ross, invest themselves with military guards of their countrymen for life, and promise them pay from money due their whole countrymen; and they are too well

warned of the consequences of remaining at home and attending to their ordinary concerns. Secret assassinations would again go on, and their whole party be destroyed, before any declaration of hostilities would be made, which the military of the country would feel authorized to treat as "domestic strife."

The treaty party have, therefore, sent their trusty friends, John Abell and Stand Watie, to the Secretary of War, to solicit that protection promised in the treaty, and which they confidently believe the Government of the United States are able and willing to afford. They solemnly ask for redress for the murders of their friends, who have been assassinated without a hearing, without a trial, and without a crime. They ask that their own lives remain not in jeopardy. They ask that the money due to the Cherokee people under the treaty be not paid to a party who acknowledge not its sanction, destroy its framers, and yet, with their characteristic cupidity, seek to appropriate its benefits to accomplish the ambitious purposes of their leaders.

The ways and means of their relief they pretend not to dictate; but they confidently appeal to the Government of the United States, and, as their only hope, trust to them for relief.

Signed in behalf of the meeting.

Hon. J. R. POINSETT, *Secretary of War.*

SEPTEMBER, 2, 1839.

DEAR SIR: Enclosed we send you a copy of a communication from Mr. Ross's convention. You will see that they have given us until the 4th of this month to come forward and sign the pledge. They are anxious for us to "comply with the requisition, it being essential (they say) to the preservation of peace, that the life of a citizen shall not be unlawfully endangered."

They tell us plainly that our lives will be in danger if we do not comply within the time given. We have been told by some of these conventioners, that a portion of their body insisted upon closing the decree and marching forthwith upon us, without giving us any timely notice of its being closed. It is impossible that we can remain as we are much longer. It seems a duty we owe to ourselves that we prepare to defend our persons; likewise, that we send some persons to the city of Washington to fully apprize the Government of the United States of our situation, and insist upon its interposition. However, these are matters that we wish to consult you on, and we wish you to speak fully and frankly to us on these important subjects.

We have the honor to subscribe ourselves your obedient humble servants,

GEORGE W. ADAIR,
J. A. BELL, and others.

Capt. WM. ARMSTRONG, *Acting Superintendent, W. T.*

No. 7.

HEAD QUARTERS, 2d DEPT., W. DIVISION,
Fort Gibson, September 4, 1839.

GENTLEMEN: I received, on the 2d instant, from George W. Adair, John A. Bell, and others, a copy of your decree of the 21st ultimo, by which it appears that they are required to appear before your convention on or before this date, otherwise to be regarded outlaws.

It is true that the decrees in relation to the individuals referred to do not particularly state the principal offence with which they are charged; yet it is distinctly understood that the material offence for which they are outlawed (if they do not comply with the conditions of your decrees) is, their having signed a treaty made with the United States at New Echota, on the 29th day of December, 1835.

They have demanded protection from the Government of the United States; and inasmuch as said Government regarded the signers of the treaty referred to competent and duly authorized to conclude that treaty, it could not therefore be anticipated by the United States that any other portion of the Cherokee nation could or would attempt to hold said individuals criminally responsible for that act.

If they have made threats against any one or more individuals of the Cherokee nation, they ought certainly to give a suitable pledge or security to demean themselves in a peaceable manner, and to abstain from violence to any one.

I request that you will favor me with a reply to this communication by the return of the bearer.

I am, gentlemen, very respectfully, your obedient servant,

M. ARBUCKLE, *Brevet Brig. General U. S. A.*

JOHN ROSS, Esq., and others, in convention near the Illinois river.

True copy: S. G. SIMMONS,
A. D. C. and A. A. Adjt. Gen. Dept., W. D